Appln. No.: 10/750,605
Amendment Dated May 21, 2008
Reply to Office Action of March 24, 2008

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Remarks/Arguments:

The pending claims are 42-53.

In paragraph 4 of the Final Office Action, claims 46, 48, 49, 51, and 53 have been rejected under 35 U.S.C. § 112, second paragraph. The Final Office Action contends that each of these claims is an omnibus type claim. Applicant respectfully disagrees. MPEP § 2173.05(r) defines as omnibus claim as one that recites: "A device substantially as shown and described." Claims 46, 48, 49, 51, and 53 do not recite prohibited omnibus claim language. Instead, they recite as follows:

> 46. The method of claim 45, wherein the placing of the at least second audio/video message is performed substantially concurrently with its creation.
>
> 48. The method of claim 47, wherein the placing of each additional respective audio/video message is performed substantially concurrently with its respective creation.
>
> 49. The method of claim 47, wherein the replacing of an earlier respective temporally independent pseudo-chronology with a later respective temporally independent pseudo-chronology is performed substantially concurrently with the storing on the workstation of each respective temporally independent pseudo-chronology.
>
> 51. The method of claim 50, wherein the placing of the at least second audio/video message is performed substantially concurrently with its creation.
>
> 53. The method of claim 52, wherein the placing of the at least second audio/video message is performed substantially concurrently with its creation.

Accordingly, Applicants request the PTO to withdraw its rejection of claims 46, 48, 49, 51 and 53 under 35 U.S.C. § 112, second paragraph.

Claims 42-53 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Shaffer et al. (U.S. Patent No. 6,490,614) in view of Reele et al. (U.S. Patent No. 5,619,257). The rejection is traversed. Both Shaffer and Reele are substantially different from Applicant's claimed invention.

Claim 42 recites, in part:

> (b) transferring a copy of the first audio/video message to the server

The Office Action contends that this feature is shown in col. 4, lines 62-65 and col. 5, lines 32-33 of Shaffer. Applicant disagrees. Shaffer clearly explains that a **copy** of the **original**

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message is **not** submitted. Instead, it states that a "receiver receives the message and **inserts changes** in the message. . .The **proposed change** is then submitted to a moderator for approval." (col. 4, lines 51-52, 62-63). Because the message that is sent to the moderator has changes, it cannot possibly be a **copy** of the **original message**. Therefore, Shaffer does not show "transferring a **copy** of the first audio/video message."

Paragraph (c) of claim 42 recites:

storing the first audio/video message on the server.

The Office Action contends that this feature is shown in col. 3, lines 8-11. Applicant disagrees. The cited portion of Shaffer only describes a "general storage area" that "can also be used to store input data and processed data." The cited portion does not describe what is stored there. More specifically, it does not describe "storing the first audio/video message on the server" as recited in claim 42.

Paragraph (d) of claim 42 recites:

creating at least a second audio/video message on a second workstation at a second time later than a first time.

The Office Action contends that this feature is shown in col. 6, lines 19-24 (it is believed that col. 6, lines 19-28 was the intended reference). The cited portion of Shaffer indicates that two different users, at two different workstations create their own respective portions of a single audio/video message. Specifically, Shaffer states:

one employee may have generated the image portion. . .while another employee may have generated the audio portion. . .Accordingly, the first employee may be designated as the manager for the image portion. . .while the second employee is designated as the manager for the audio portion. . . .

In contrast, claim 42 ¶(d) recites "creating. . .a second audio/video message on **a** second workstation." (emphasis added)

Paragraph (e) of claim 42 recites:

transferring a copy of the at least second audio/video message to the server.

The Office Action contends that this feature is shown in col. 4, lines 62-65 and col. 5, lines 32-33 (it is believed that the second reference was intended to be col. 6, lines 32-33). Applicant disagrees. Both of the referenced citations to Shaffer explain that a proposed change or an actual change is made to a message and then submitted to a moderator for approval. As indicated above regarding paragraph (b), because the message that is sent to the moderator

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has changes, it cannot possibly be a **copy** of the **original message**. Therefore, Shaffer does not show "transferring a **copy** of the at least second audio/video message."

Claim 42 also recites, in part:

(f)   placing the at least second audio/video message on the server in a temporally independent pseudo-chronology relative to the first audio/video message determined by a user of the second workstation; and

(g)   storing on the server the first audio/video message and the at least second audio/video message in the temporally independent pseudo-chronology.

Relying upon col. 4, lines 22-29 of Reele, page 4 of the Final Office Action contends that Reele teaches "placing and storing the at least second audio video message on the server in a temporally independent pseudo-chronology relative to the first audio/video message determined by a user of the second workstation." Applicant disagrees.

Claim 42 recites, in part, a first workstation where a first audio/video message is created, a second workstation where a second audio/video message is created, a server where the two messages are placed, and a user of the **second workstation** who determines the temporally independent pseudo-chronology of the two audio/video messages on the server. Reele does not involve two workstations and a server; and does not involve a user at a second workstation determining a pseudo-chronology of audio/video messages on a server. Instead, Reele involves a **single** camera that can store images at different densities or resolutions. (col. 3, lines 61-62). The **single user of the single camera** (not the user of a second workstation that is separate from the single camera) "select[s] the density and format of each picture taken on a picture by picture basis." (col. 4, lines 19-21). The **single user of the single camera** (not the user of a second workstation that is separate from the single camera) determines the order in which the images are selected. (col. 23-25). In addition, the **single user of the single camera** (not the user of a second workstation that is separate from the single camera) "designate[s] pictures for transfer to another media, for printing or for deletion." (col. 4, lines 27-28). In Reele, therefore, the single camera is the location where the image is created, received, and stored. Reele does not teach a system or method where audio/video messages are created at separate workstations, copies of the messages created at the separate workstations are transferred to a receiver in the form of a server, and a pseudo-chronology of the messages is created and stored on the server as determined by a user of the second workstation.

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In addition, the Reele system has severe storage and placement limitations. As a result, the camera's **computer** must determine whether a particular location "is capable of storing a picture of the designated density so as to determine whether the memory 20 can store the picture to be taken." (col. 5, lines 5-9). See also, col. 5, lines 27-27-29 (**computer** must examine other locations for storage); col. 5, lines 33-34 (location 46 cannot store specific kinds of images); col. 35-41 (**computer** must find storage space under certain conditions).

In contrast, claim 42 ¶(f) recites "placing the at least second audio/video message" (that had been created on a second workstation, not created at the server) "on the server" "in a temporally independent pseudo-chronology . . . determined by a **user of the second workstation**." There is no teaching in Reele that the steps of creating, receiving, and storing can be performed at multiple locations and can be controlled by a user other than a user of the camera/receiver. Accordingly, Reele does not teach ¶¶ (f) and (g) of claim 42 so that even if the teachings of the two references were combined, the resulting method would not meet the invention recited in claim 42.

Paragraphs (a) and (c) of claim 45 recite:

> (a)   creating on the workstation at a first time a first audio/video message
>
> (c)   creating on the workstation at a second time later than the first time at least a second audio/video message.

The Final Office Action contends that both of these recitations are met by col. 6, lines 19-24 of Shaffer. (Again, it is believed that col. 6, lines 19-28 were intended.) Applicant disagrees. The cited portion of Shaffer indicates that two different users, at two different workstations create their own respective portions of a **single** message. One employee generates the image portion and another employee generates the audio portion of a **single** audio/video message. More specifically, Shaffer discloses that "one employee may have generated the image portion of **the** multimedia message. . .while another employee may have generated the audio portion of **the** multimedia message." (col. 6, lines 20-23) (emphasis added) In contrast, claim 45, ¶¶(a) and (c) recite the creation of at least **two audio/video** messages on "the workstation." Accordingly, Shaffer does not disclose the recitations in paragraphs (a) and (c).

The Final Office Action also contends that col. 3, lines 8-11 of Shaffer discloses the storing steps recited in paragraphs (b) and (e) which recite:

> (b)   storing the first audio/video message on the workstation

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> (e) storing the first audio/video message and the at least second audio/video message on the workstation in the temporally independent pseudo-chronology.

Applicant disagrees for the reasons described above regarding the Final Office Action's same citation to Shaffer against claim 42. Again, the cited portion of Shaffer does not describe what is stored there. More specifically, it does not describe the two storing steps recited in paragraphs (b) and (e). In fact, page 5 of the Final Office Action inferentially agrees that Shaffer does not disclose the storing step in paragraph (e) by stating "Shaffer does not explicitly teach (d) placing **and storing** the at least second audio/video message on the workstation in a temporally independent pseudo-chronology. . . ."

The Final Office Action contends that col. 4, lines 22-29 of Reele teaches claim 45, ¶ (d) which recites:

> placing the at least second audio/video message on the workstation in a temporally independent pseudo-chronology relative to the first audio/video message determined by a user of the workstation.

Applicant disagrees.

In Reele, the user does not determine "placing the at least second audio/video message. . .in a temporally independent pseudo-chronology relative to the first audio/video message." Instead, the user of the camera selects only the density and format of each picture. (col. 4, lines 19-20). Then, the **camera's memory** not only stores the images, it stores them "in a somewhat random order." (col. 4, lines 23-24). Accordingly, (1) the order in which the images are stored is **not** determined by the user of the camera. Instead, the order is determined by the camera's memory; and (2) the camera's memory stores the images in a **random** order - **not** in the order determined **by the user** of the camera.

Accordingly, Reele does not teach ¶ (d) of claim 45 so that even if the teachings of the two references were combined, the resulting method would not meet the invention recited in claim 45.
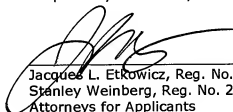
In claim 50, the recitations in paragraphs (b)-(d) and in claim 52 the recitations in paragraphs (b)-(d) are very similar to the recitations in paragraphs (c)-(e) of claim 45. The Final Office Action has rejected claims 50 and 52 for substantially the same reasons that it rejected claim 45. Applicant disagrees with the rejection of claims 50 and 52 for the same reasons set forth regarding the rejection of claim 45 and incorporates his arguments regarding the rejection of claim 45.

For the above reasons, claims 42, 45, 50, and 52 are not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Shaffer in view of Reele.

Claims 43 and 44 depend from claim 42; claims 46-49 depend from claim 45; claim 51 depends from claim 50; and claim 53 depends from claim 52. These dependent claims are not subject to the same rejection for at least the same reason as their respective independent claims.

For all of the above reasons, this application is now in condition for the allowance of all pending claims 42-53 and Applicant therefore requests an early indication of allowance.

Respectfully submitted,

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